

AMENDED IN ASSEMBLY JULY 2, 2007

AMENDED IN SENATE JUNE 4, 2007

AMENDED IN SENATE MAY 22, 2007

AMENDED IN SENATE MAY 15, 2007

AMENDED IN SENATE MAY 2, 2007

SENATE BILL

No. 658

Introduced by Senator Romero

February 22, 2007

An act to amend ~~Sections 17071.75 and 17078.27~~, *repeal, and add Section 17071.75* of the Education Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 658, as amended, Romero. School facilities.

(1) The Leroy F. Greene School Facilities Act of 1998 authorizes the State Allocation Board to apportion state funding to applicant school districts for designated school facilities construction purposes.

Existing law establishes a method for calculating a school district's continued eligibility for new construction funding. The act requires an applicant school district for new construction to submit to the board a one-time report of existing school building capacity that is to be calculated pursuant to a specified formula, and requires ongoing eligibility for new construction funding to be determined by completing a series of calculations based on projected enrollment compared to existing school building capacity.

This bill, *until January 1, 2012*, would ~~specify that for~~ authorize a school district that has experienced *at least 2* consecutive years of a decline in enrollment, ~~that an adjustment in enrollment projections~~

~~would not result in a loss of ongoing eligibility for 3 of less than 10% per year to retain eligibility for funding for no more than 5 years from the date of the approval of eligibility, except as specified if the school district meets specified requirements.~~

~~(2) Existing law establishes the Critically Overcrowded School Facilities Program to provide preliminary apportionments to eligible applicants with critically overcrowded schools. Existing law requires the State Allocation Board to convert the preliminary apportionment to a final apportionment after specified requirements are met.~~

~~This bill would require applicants to meet certain new construction or school facilities program eligibility requirements, as specified, for conversion to a final apportionment.~~

~~(3)~~

~~(2) This bill would become operative only if SB 121 of the 2007–08 Regular Session is enacted and becomes operative.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.~~

The people of the State of California do enact as follows:

1 *SECTION 1. Section 17071.75 of the Education Code is*
2 *amended to read:*

3 17071.75. After a one-time initial report of existing school
4 building capacity has been completed, the ongoing eligibility of a
5 school district for new construction funding shall be determined
6 by making all of the following calculations:

7 (a) A school district that applies to receive funding for new
8 construction shall use the following methods to determine projected
9 enrollment:

10 (1) A school district that has two or more schoolsites each with
11 a pupil population density that is greater than 115 pupils per acre
12 in kindergarten and grades 1 to 6, inclusive, or a schoolsite pupil
13 population density that is greater than 90 pupils per acre in grades
14 7 to 12, inclusive, as determined by the Superintendent using
15 enrollment data from the California Basic Educational Data System
16 for the 2004–05 school year, may submit an application for funding
17 for projects that will relieve overcrowded conditions. That school
18 district ~~may~~ also *may* submit an alternative enrollment projection
19 for the fifth year beyond the fiscal year in which the application
20 is made using a methodology other than the cohort survival method

as defined by the board pursuant to paragraph (2), to be reviewed by the Demographic Research Unit of the Department of Finance, in consultation with the department and the Office of Public School Construction. If the Office of Public School Construction and the Demographic Research Unit of the Department of Finance jointly determine that the alternative enrollment projection provides a reasonable estimate of expected enrollment demand, a recommendation shall be forwarded to the board to approve or disapprove the application, in accordance with all of the following:

(A) Total funding for new construction projects using this method shall be limited to five hundred million dollars (\$500,000,000); from the Kindergarten-University Public Education Facilities Bond Act of 2004.

(B) The eligibility amount for proposed projects that relieve overcrowding is the difference between the alternative enrollment projection method for the year the application is submitted and the cohort survival method, as defined by paragraph (2), for the same year, adjusted by the existing pupil capacity in excess of the projected enrollment according to the cohort survival projection method.

(C) The Office of Public School Construction shall determine whether each proposed project will relieve overcrowding, including, but not limited to, the elimination of the use of Concept 6 calendars, four track year-round calendars, or busing in excess of 40 minutes, and recommend approval to the board. The number of unhoused pupil grants requested in the application for funding from the eligibility determined pursuant to this paragraph shall be limited to the number of seats necessary to relieve overcrowding, including, but not limited to, the elimination of the use of Concept 6 calendars, four track year-round calendars, or busing in excess of 40 minutes, less the number of unhoused pupil grants attributed to that school as a source school in an approved application pursuant to Section 17078.24.

(D) A school district shall use the same alternative enrollment projection methodology for all applications submitted pursuant to this paragraph and shall calculate those projections in accordance with the same districtwide or high school attendance area used for the enrollment projection made pursuant to paragraph (2).

(2) A school district shall calculate enrollment projections for the fifth year beyond the fiscal year in which the application is

1 made. Projected enrollment shall be determined by utilizing the
2 cohort survival enrollment projection system, as defined and
3 approved by the board. The board may supplement the cohort
4 survival enrollment projection by the number of unhoused pupils
5 ~~that~~ *who* are anticipated as a result of dwelling units proposed
6 pursuant to approved and valid tentative subdivision maps.

7 (b) (1) Add the number of pupils ~~that~~ *who* may be *housed*
8 ~~adequately housed~~ in the existing school building capacity of the
9 applicant school district as determined pursuant to Article 2
10 (commencing with Section 17071.10) to the number of pupils for
11 whom facilities were provided from any state or local funding
12 source after the existing school building capacity was determined
13 pursuant to Article 2 (commencing with Section 17071.10). For
14 this purpose, the total number of pupils for whom facilities were
15 provided shall be determined using the pupil loading formula set
16 forth in Section 17071.25.

17 (2) Subtract from the number of pupils calculated in paragraph
18 (1) the number of pupils ~~that~~ *who* were housed in facilities to which
19 the school district or county office of education relinquished title
20 as the result of a transfer of a special education program between
21 a school district and a county office of education or special
22 education local plan area, if applicable. For this purpose, the total
23 number of pupils ~~that~~ *who* were housed in the facilities to which
24 title was relinquished shall be determined using the pupil loading
25 formula adopted by the board pursuant to subparagraph (B) of
26 paragraph (2) of subdivision (a) of Section 17071.25. For purposes
27 of this paragraph, title also includes any lease interest with a
28 duration of greater than five years.

29 (c) Subtract the number of pupils pursuant to subdivision (b)
30 from the number of pupils determined pursuant to paragraph (2)
31 of subdivision (a).

32 (d) The calculations required to establish eligibility under this
33 article shall result in a distinction between the number of existing
34 unhoused pupils and the number of projected unhoused pupils.

35 (e) Apply the increase or decrease resulting from the difference
36 between the most recent report made pursuant to Section 42268,
37 and the report used in determining the baseline capacity of the
38 school district pursuant to subdivision (a) of Section 17071.25.

39 (f) For purposes of calculating projected enrollment pursuant
40 to subdivision (a), the board may adopt regulations to ensure that

the enrollment calculation of individuals with exceptional needs receiving special education services is adjusted in the enrollment reporting period in which the transfer occurs and three previous school years as a result of any transfer of a special education program between a school district and a county office of education or a special education local plan area. However, the projected enrollment calculation of a county office of education shall ~~only~~ be adjusted *only* if a transfer of title for the special education program facilities has occurred. The regulations, if adopted, shall ensure that if a transfer of title to special education program facilities constructed with state funds occurs within 10 years after initial occupancy of the facility, the receiving school district or school districts shall remit to the state a proportionate share of any financial hardship assistance provided for the project pursuant to Section 17075.10, if applicable.

(g) For a school district with an enrollment of 2,500, or less, an adjustment in enrollment projections shall not result in a loss of ongoing eligibility to that school district for a period of three years from the date of the approval of eligibility by the board.

(h) A school district may retain eligibility for funding under this chapter for no more than five years from the date the eligibility was approved by the board if the school district has experienced at least two consecutive years of decline in enrollment of less than 10 percent in either year, as determined pursuant to this section, and meets the following requirements:

(1) The local educational agency had a board-adopted plan in place at the time that eligibility was last established that addressed the need for new school construction for at least five years following the date of the school district's application for new construction funding, and the plan contained the following elements:

(A) A projection of pupils and the methodology used in the projection.

(B) A determination of the capacity of existing schools.

(C) Educational program needs.

(2) The State Department of Education reviews the plan and notifies the board of approved plans.

(3) The school district has received either of the following from the State Department of Education for a new site to serve the pupils identified in the plan described in paragraph (1):

1 (A) Final site approval by the State Department of Education.

2 (B) A determination by the State Department of Education that
3 the site is the best available alternative site, and the local
4 educational agency has completed and submitted all requirements
5 for site approval except for the following:

6 (i) Final approval from the Department of Toxic Substances
7 Control if the Department of Toxic Substances Control has
8 estimated that a response action for the site will take six or more
9 months to complete, or the local educational agency is currently
10 determined by the Office of Public School Construction to meet
11 the requirements for financial hardship status.

12 (ii) Completion of the California Environmental Quality Act
13 (Division 13 (commencing with Section 21000) of the Public
14 Resources Code) process.

15 (i) This section shall remain in effect only until January 1, 2012,
16 and as of that date is repealed, unless a later enacted statute, that
17 is enacted before January 1, 2012, deletes or extends that date.

18 SEC. 2. Section 17071.75 is added to the Education Code, to
19 read:

20 17071.75. After a one-time initial report of existing school
21 building capacity has been completed, the ongoing eligibility of a
22 school district for new construction funding shall be determined
23 by making all of the following calculations:

24 (a) A school district that applies to receive funding for new
25 construction shall use the following methods to determine projected
26 enrollment:

27 (1) A school district that has two or more schoolsites each with
28 a pupil population density that is greater than 115 pupils per acre
29 in kindergarten and grades 1 to 6, inclusive, or a schoolsite pupil
30 population density that is greater than 90 pupils per acre in grades
31 7 to 12, inclusive, as determined by the Superintendent using
32 enrollment data from the California Basic Educational Data System
33 for the 2004–05 school year, may submit an application for funding
34 for projects that will relieve overcrowded conditions. That school
35 district also may submit an alternative enrollment projection for
36 the fifth year beyond the fiscal year in which the application is
37 made using a methodology other than the cohort survival method
38 as defined by the board pursuant to paragraph (2), to be reviewed
39 by the Demographic Research Unit of the Department of Finance,
40 in consultation with the department and the Office of Public School

1 *Construction. If the Office of Public School Construction and the*
2 *Demographic Research Unit of the Department of Finance jointly*
3 *determine that the alternative enrollment projection provides a*
4 *reasonable estimate of expected enrollment demand, a*
5 *recommendation shall be forwarded to the board to approve or*
6 *disapprove the application, in accordance with all of the following:*

7 *(A) Total funding for new construction projects using this*
8 *method shall be limited to five hundred million dollars*
9 *(\$500,000,000) from the Kindergarten-University Public Education*
10 *Facilities Bond Act of 2004.*

11 *(B) The eligibility amount for proposed projects that relieve*
12 *overcrowding is the difference between the alternative enrollment*
13 *projection method for the year the application is submitted and*
14 *the cohort survival method, as defined by paragraph (2), for the*
15 *same year, adjusted by the existing pupil capacity in excess of the*
16 *projected enrollment according to the cohort survival projection*
17 *method.*

18 *(C) The Office of Public School Construction shall determine*
19 *whether each proposed project will relieve overcrowding,*
20 *including, but not limited to, the elimination of the use of Concept*
21 *6 calendars, four track year-round calendars, or busing in excess*
22 *of 40 minutes, and recommend approval to the board. The number*
23 *of unhoused pupil grants requested in the application for funding*
24 *from the eligibility determined pursuant to this paragraph shall*
25 *be limited to the number of seats necessary to relieve*
26 *overcrowding, including, but not limited to, the elimination of the*
27 *use of Concept 6 calendars, four track year-round calendars, or*
28 *busing in excess of 40 minutes, less the number of unhoused pupil*
29 *grants attributed to that school as a source school in an approved*
30 *application pursuant to Section 17078.24.*

31 *(D) A school district shall use the same alternative enrollment*
32 *projection methodology for all applications submitted pursuant*
33 *to this paragraph and shall calculate those projections in*
34 *accordance with the same districtwide or high school attendance*
35 *area used for the enrollment projection made pursuant to*
36 *paragraph (2).*

37 *(2) A school district shall calculate enrollment projections for*
38 *the fifth year beyond the fiscal year in which the application is*
39 *made. Projected enrollment shall be determined by utilizing the*
40 *cohort survival enrollment projection system, as defined and*

1 approved by the board. The board may supplement the cohort
2 survival enrollment projection by the number of unhoused pupils
3 who are anticipated as a result of dwelling units proposed pursuant
4 to approved and valid tentative subdivision maps.

5 (b) (1) Add the number of pupils who may be housed adequately
6 in the existing school building capacity of the applicant school
7 district as determined pursuant to Article 2 (commencing with
8 Section 17071.10) to the number of pupils for whom facilities were
9 provided from any state or local funding source after the existing
10 school building capacity was determined pursuant to Article 2
11 (commencing with Section 17071.10). For this purpose, the total
12 number of pupils for whom facilities were provided shall be
13 determined using the pupil loading formula set forth in Section
14 17071.25.

15 (2) Subtract from the number of pupils calculated in paragraph
16 (1) the number of pupils who were housed in facilities to which
17 the school district or county office of education relinquished title
18 as the result of a transfer of a special education program between
19 a school district and a county office of education or special
20 education local plan area, if applicable. For this purpose, the total
21 number of pupils who were housed in the facilities to which title
22 was relinquished shall be determined using the pupil loading
23 formula adopted by the board pursuant to subparagraph (B) of
24 paragraph (2) of subdivision (a) of Section 17071.25. For purposes
25 of this paragraph, title also includes any lease interest with a
26 duration of greater than five years.

27 (c) Subtract the number of pupils pursuant to subdivision (b)
28 from the number of pupils determined pursuant to paragraph (2)
29 of subdivision (a).

30 (d) The calculations required to establish eligibility under this
31 article shall result in a distinction between the number of existing
32 unhoused pupils and the number of projected unhoused pupils.

33 (e) Apply the increase or decrease resulting from the difference
34 between the most recent report made pursuant to Section 42268,
35 and the report used in determining the baseline capacity of the
36 school district pursuant to subdivision (a) of Section 17071.25.

37 (f) For purposes of calculating projected enrollment pursuant
38 to subdivision (a), the board may adopt regulations to ensure that
39 the enrollment calculation of individuals with exceptional needs
40 receiving special education services is adjusted in the enrollment

1 *reporting period in which the transfer occurs and three previous*
 2 *school years as a result of any transfer of a special education*
 3 *program between a school district and a county office of education*
 4 *or a special education local plan area. However, the projected*
 5 *enrollment calculation of a county office of education shall be*
 6 *adjusted only if a transfer of title for the special education program*
 7 *facilities has occurred. The regulations, if adopted, shall ensure*
 8 *that if a transfer of title to special education program facilities*
 9 *constructed with state funds occurs within 10 years after initial*
 10 *occupancy of the facility, the receiving school district or school*
 11 *districts shall remit to the state a proportionate share of any*
 12 *financial hardship assistance provided for the project pursuant to*
 13 *Section 17075.10, if applicable.*

14 (g) *For a school district with an enrollment of 2,500, or less,*
 15 *an adjustment in enrollment projections shall not result in a loss*
 16 *of ongoing eligibility to that school district for a period of three*
 17 *years from the date of the approval of eligibility by the board.*

18 (h) *This section shall become operative on January 1, 2012.*

19 SEC. 3. *This act shall become operative only if Senate Bill 121*
 20 *of the 2007–08 Regular Session is enacted and becomes operative.*

21 SECTION 1. ~~Section 17071.75 of the Education Code is~~
 22 ~~amended to read:~~

23 ~~17071.75. After a one-time initial report of existing school~~
 24 ~~building capacity has been completed, the ongoing eligibility of a~~
 25 ~~school district for new construction funding shall be determined~~
 26 ~~by making all of the following calculations:~~

27 (a) ~~A school district that applies to receive funding for new~~
 28 ~~construction shall use the following methods to determine projected~~
 29 ~~enrollment:~~

30 (1) ~~A school district that has two or more schoolsites each with~~
 31 ~~a pupil population density that is greater than 115 pupils per acre~~
 32 ~~in kindergarten and grades 1 to 6, inclusive, or a schoolsite pupil~~
 33 ~~population density that is greater than 90 pupils per acre in grades~~
 34 ~~7 to 12, inclusive, as determined by the Superintendent using~~
 35 ~~enrollment data from the California Basic Educational Data System~~
 36 ~~for the 2004–05 school year, may submit an application for funding~~
 37 ~~for projects that will relieve overcrowded conditions. That school~~
 38 ~~district may also submit an alternative enrollment projection for~~
 39 ~~the fifth year beyond the fiscal year in which the application is~~
 40 ~~made using a methodology other than the cohort survival method~~

1 as defined by the board pursuant to paragraph (2), to be reviewed
2 by the Demographic Research Unit of the Department of Finance;
3 in consultation with the department and the Office of Public School
4 Construction. If the Office of Public School Construction and the
5 Demographic Research Unit of the Department of Finance jointly
6 determine that the alternative enrollment projection provides a
7 reasonable estimate of expected enrollment demand, a
8 recommendation shall be forwarded to the board to approve or
9 disapprove the application, in accordance with all of the following:

10 (A) Total funding for new construction projects using this
11 method shall be limited to five hundred million dollars
12 (\$500,000,000) from the Kindergarten-University Public Education
13 Facilities Bond Act of 2004.

14 (B) The eligibility amount for proposed projects that relieve
15 overcrowding is the difference between the alternative enrollment
16 projection method for the year the application is submitted and the
17 cohort survival method, as defined by paragraph (2), for the same
18 year, adjusted by the existing pupil capacity in excess of the
19 projected enrollment according to the cohort survival projection
20 method.

21 (C) The Office of Public School Construction shall determine
22 whether each proposed project will relieve overcrowding,
23 including, but not limited to, the elimination of the use of Concept
24 6 calendars, four track year-round calendars, or busing in excess
25 of 40 minutes, and recommend approval to the board. The number
26 of unhoused pupil grants requested in the application for funding
27 from the eligibility determined pursuant to this paragraph shall be
28 limited to the number of seats necessary to relieve overcrowding,
29 including, but not limited to, the elimination of the use of Concept
30 6 calendars, four track year-round calendars, or busing in excess
31 of 40 minutes, less the number of unhoused pupil grants attributed
32 to that school as a source school in an approved application
33 pursuant to Section 17078.24.

34 (D) A school district shall use the same alternative enrollment
35 projection methodology for all applications submitted pursuant to
36 this paragraph and shall calculate those projections in accordance
37 with the same districtwide or high school attendance area used for
38 the enrollment projection made pursuant to paragraph (2).

39 (2) A school district shall calculate enrollment projections for
40 the fifth year beyond the fiscal year in which the application is

1 made. Projected enrollment shall be determined by utilizing the
2 cohort survival enrollment projection system, as defined and
3 approved by the board. The board may supplement the cohort
4 survival enrollment projection by the number of unhoused pupils
5 that are anticipated as a result of dwelling units proposed pursuant
6 to approved and valid tentative subdivision maps.

7 (b) (1) Add the number of pupils that may be adequately housed
8 in the existing school building capacity of the applicant school
9 district as determined pursuant to Article 2 (commencing with
10 Section 17071.10) to the number of pupils for whom facilities were
11 provided from any state or local funding source after the existing
12 school building capacity was determined pursuant to Article 2
13 (commencing with Section 17071.10). For this purpose, the total
14 number of pupils for whom facilities were provided shall be
15 determined using the pupil loading formula set forth in Section
16 17071.25.

17 (2) Subtract from the number of pupils calculated in paragraph
18 (1) the number of pupils that were housed in facilities to which
19 the school district or county office of education relinquished title
20 as the result of a transfer of a special education program between
21 a school district and a county office of education or special
22 education local plan area, if applicable. For this purpose, the total
23 number of pupils that were housed in the facilities to which title
24 was relinquished shall be determined using the pupil loading
25 formula adopted by the board pursuant to subparagraph (B) of
26 paragraph (2) of subdivision (a) of Section 17071.25. For purposes
27 of this paragraph, title also includes any lease interest with a
28 duration of greater than five years.

29 (c) Subtract the number of pupils pursuant to subdivision (b)
30 from the number of pupils determined pursuant to paragraph (2)
31 of subdivision (a).

32 (d) The calculations required to establish eligibility under this
33 article shall result in a distinction between the number of existing
34 unhoused pupils and the number of projected unhoused pupils.

35 (e) Apply the increase or decrease resulting from the difference
36 between the most recent report made pursuant to Section 42268,
37 and the report used in determining the baseline capacity of the
38 school district pursuant to subdivision (a) of Section 17071.25.

39 (f) For purposes of calculating projected enrollment pursuant
40 to subdivision (a), the board may adopt regulations to ensure that

1 the enrollment calculation of individuals with exceptional needs
2 receiving special education services is adjusted in the enrollment
3 reporting period in which the transfer occurs and three previous
4 school years as a result of any transfer of a special education
5 program between a school district and a county office of education
6 or a special education local plan area. However, the projected
7 enrollment calculation of a county office of education only shall
8 be adjusted if a transfer of title for the special education program
9 facilities has occurred. The regulations, if adopted, shall ensure
10 that if a transfer of title to special education program facilities
11 constructed with state funds occurs within 10 years after initial
12 occupancy of the facility, the receiving school district or school
13 districts shall remit to the state a proportionate share of any
14 financial hardship assistance provided for the project pursuant to
15 Section 17075.10, if applicable.

16 (g) For a school district with an enrollment of 2,500, or less, an
17 adjustment in enrollment projections shall not result in a loss of
18 ongoing eligibility to that school district for a period of three years
19 from the date of the approval of eligibility by the board.

20 (h) For a school district that has experienced two consecutive
21 years of a decline in enrollment, an adjustment in enrollment
22 projections shall not result in a loss of ongoing eligibility to that
23 school district for a period of three years from the date of the
24 approval of eligibility by the board. This provision shall not apply
25 to a school district that has experienced decline in enrollment
26 greater than 10 percent in either year.

27 SEC. 2. Section 17078.27 of the Education Code is amended
28 to read:

29 17078.27. (a) Upon completion of the preliminary process
30 authorized pursuant to this article, and when a preliminary applicant
31 has complied with the conditions set forth in this chapter for a final
32 apportionment, including, but not limited to, Section 17070.50,
33 the board shall adjust the preliminary apportionment as set forth
34 in subdivision (b) and as necessary to reflect the current eligible
35 grant amounts for final apportionments pursuant to this chapter
36 consistent with regulations adopted pursuant to subdivision (c) of
37 Section 17078.24. The board shall then convert the adjusted
38 preliminary apportionment to a final apportionment and proceed
39 to completion of the project in the same manner as for any project
40 funded under provisions of this chapter other than this article.

1 ~~(b) The board may adjust for cost increases only if uncommitted~~
2 ~~funds reserved expressly for the purposes of this article remain~~
3 ~~available for those purposes.~~

4 ~~(c) For purposes of calculating enrollment to determine~~
5 ~~eligibility for a final apportionment for a project funded from the~~
6 ~~Kindergarten-University Public Education Facilities Bond Act of~~
7 ~~2002, as set forth in Part 68.1 (commencing with Section 100600),~~
8 ~~and the Kindergarten-University Public Education Facilities Bond~~
9 ~~Act of 2004, as set forth in Part 68.2 (commencing with Section~~
10 ~~100800), an applicant may use one of the following methods as~~
11 ~~an alternative to the method provided in subdivision (a) of Section~~
12 ~~17071.75:~~

13 ~~(1) The current year enrollment as recorded on the cohort~~
14 ~~survival enrollment projection system described in subdivision (a)~~
15 ~~of Section 17071.75, for the year in which the application for the~~
16 ~~final apportionment is submitted.~~

17 ~~(2) (A) If eligibility for the preliminary apportionment was~~
18 ~~calculated pursuant to Section 17071.76, the current year or~~
19 ~~five-year projected enrollment as recorded on a cohort survival~~
20 ~~enrollment projection system, developed and approved by the~~
21 ~~board, that uses pupil residence in the high school attendance area,~~
22 ~~for the year in which the application for the final apportionment~~
23 ~~is submitted.~~

24 ~~(B) A school district that uses the method described in this~~
25 ~~paragraph to calculate enrollment shall also use this method to~~
26 ~~calculate enrollment for all applications it submits for final~~
27 ~~apportionments for projects for which preliminary apportionments~~
28 ~~were approved from the same bond authorization.~~

29 ~~(d) (1) When a preliminary apportionment is converted to a~~
30 ~~final apportionment, the applicant must have current new~~
31 ~~construction eligibility sufficient to support at least 75 percent of~~
32 ~~the number of pupils for which the applicant received the~~
33 ~~preliminary apportionment.~~

34 ~~(2) In lieu of paragraph (1), if the applicant's enrollment has~~
35 ~~decreased to less than 75 percent of the number of pupils for which~~
36 ~~the applicant received the preliminary apportionment, the applicant~~
37 ~~may use any school facilities program eligibility under this chapter~~
38 ~~justified for its conversion to a final apportionment.~~

1 ~~SEC. 3. This act shall become operative only if Senate Bill~~
2 ~~121 of the 2007-08 Regular Session is enacted and becomes~~
3 ~~operative.~~

O